

Message Text

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ORIGIN OES-07

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FM SECSTATE WASHDC
TO AMEMBASSY LONDON
INFO COAST GUARD WASHDC 0016
DEPT OF JUSTICE

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E.O. 11652: N/A

TAGS: EWWT, SNAR, UK, US

SUBJECT:UK POSITION RE BOARDING, SEARCHING AND ARREST
OF VESSELS ON THE HIGH SEAS

REF: (A) LONDON 19535(77) (B) STATE 04320

1. REPRESENTATIVES OF THE DEPARTMENT, JUSTICE AND COAST
GUARD HAVE EXAMINED THE UK POSTION IN REGARD TO NARCOTICS
ENFORCEMENT ON THE HIGH SEAS. THIS GROUP TOOK NOTE OF
THE POSITION ADOPTED BY THE UK IN THE CASES OF THE GRET-
CHEN AND GOOD KARMA, NAMELY: A) HMG RESPONDED THAT IT HAD
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"NO OBJECTION" TO THE COAST GUARD'S BOARDING AND SEARCH-
ING A UK FLAG VESSEL ON THE HIGH SEAS IF THE US HAD GOOD
REASON TO SUSPECT THE VESSEL WAS ENGAGED IN SMUGGLING OR
ATTEMPTING TO SMUGGLE NARCOTICS INTO THE US, BUT THAT IT
DID NOT GIVE PERMISSION. B) HMG SAID IT WOULD OBJECT TO
US ARRESTING THE VESSEL EITHER FOR A VIOLATION OF US OR
UK LAW. C) HMG AGREED TO ALLOW THE US TO ASSEMBLE

EVIDENCE TO DOCUMENT A VIOLATION OF UK LAW, WHICH THE US WOULD PASS TO HMG, FOR USE IN PROSECUTING THE VESSEL WHEN IT RETURNED TO HMG TERRITORY.

2. US UNDERSTANDING OF THE UK POSITION IS: A) HMG IS COOPERATING WITH THE US TO THE EXTENT POSSIBLE UNDER ITS

LAW, WHILE PROTECTING ITS LEGAL POSITION ON EXTRATERRITORIALITY. THE "NO OBJECTION" RESPONSE TO THE REQUEST TO BOARD AND SEARCH MAY BE INTERPRETED IN THE LIGHT OF A 1924 US-UK TREATY DEALING WITH ALCOHOL, I.E. AS CONSTITUTING AUTHORITY TO BOARD, IN THE ABSENCE OF ANY OPPOSITION FROM THE VESSEL. THE US RECOGNIZES IT MUST ACCEPT LIABILITY PURSUANT TO A "NO OBJECTION" RESPONSE. B) SINCE HMG WILL OBJECT TO ANY ARREST ON THE HIGH SEAS OF A UK FLAG VESSEL, THE COURSE OF ACTION THAT HMG HAS AUTHORIZED IS TO GATHER EVIDENCE AND DOCUMENT THE CASE FOR TRANSMISSION TO HMG. WHILE THIS IS NOT ENTIRELY SATISFACTORY TO THE US, IT IS MARGINALLY CONSISTENT WITH US PRIORITIES, NAMELY: INTERDICTION OF CONTRABAND, REMOVAL OF THE VESSEL FROM THE TRADE, AND PROSECUTION OF THE CREW. A PRACTICAL PROBLEM OF COLLECTION AND TRANSMISSION OF EVIDENCE DEVELOPS WHEN TONS OF MARIJUANA ARE FOUND ABOARD A VESSEL. UNDER THIS CIRCUMSTANCE, US WOULD CONSIDER DESTRUCTION OF ALL CONTRABAND EXCEPT FOR AN EVIDENTIARY SAMPLE. INASMUCH AS THE US HAS NOT HAD AN OPPORTUNITY TO APPROACH HMG ON THE LIMITED OFFICIAL USE

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QUESTION OF DESTRUCTION OF CONTRABAND AND RETENTION OF AN EVIDENTIARY SAMPLE, THE DEPARTMENT WOULD BE INTERESTED IN EMBASSY'S ASSESMENT OF THE PROBABLE RESPONSE TO SUCH A REQUEST.

3. EMBASSY SUGGESTION REGARDING A PROCEDURE TO EXPEDITIOUSLY OBTAIN HMG RESPONSE IS HIGHLY DESIRABLE. THE DEPARTMENT PROPOSES TO ATTEMPT TO TAILOR FUTURE REQUESTS WITHIN THE FRAMEWORK OF HMG POSITION. FUTURE REQUESTS WILL BE TRANSMITTED DIRECTLY TO EMBASSY WITHOUT REFERRAL TO UK EMBASSY IN WASHINGTON. EACH REQUEST WILL BE HANDLED ON A CASE-BY-CASE BASIS PENDING ANY FUTURE MUTUAL UNDERSTANDING ON THIS ISSUE.

4. FYI: RESEARCH ON QUESTIONS POSED BY REFTTEL (A) AS WELL AS OTHERS RELEVANT TO THIS ISSUE IS CONTINUING. AS US POSITIONS ARE ESTABLISHED DIALOGUE WITH HMG IS ANTICIPATED. END FYI COOPER

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